

Via ECFS

March 1, 2014

Marlene H. Dortch  
Office of the Secretary  
Federal Communication Commission  
445 12<sup>th</sup> Street SW  
Suite TW-A325  
Washington, DC 20554

Re: **EB DOCKET NO. 06-36**; *Annual 47 C.F.R. § 64.2009(e) CPNI Certification*

Dear Ms. Dortch:

opticAccess, LLC hereby files its Annual CPNI Compliance Certification for the 2013 calendar year.

Please let me know if you have any questions about this filing.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jeff Yount'.

Jeff Yount  
Chief Operating Officer

Annual 47 C.F.R. § 64.2009(e) CPNI Certification

EB Docket 06-36

Annual 64.2009(e) CPNI Certification for 2014 covering the prior calendar year 2013

1. Date filed: March 1, 2014
2. Name of company covered by this certification: opticAccess, LLC
3. Form 499 Filer ID: pending
4. Name of signatory: Jeff Yount
5. Title of signatory: Chief Operating Officer
6. Certification:

I, Jeff Yount, certify that I am an officer of the Company named above, and acting as an agent of the Company, that I have personal knowledge that the Company has established operating procedures that are adequate to ensure compliance with the Commission's CPNI rules. *See 47 C.F.R. § 64.2001 et seq.*

Attached to this certification is an accompanying statement explaining how the Company's procedures ensure that the Company is in compliance with the requirements (including those mandating the adoption of CPNI procedures, training, recordkeeping, and supervisory review) set forth in section 64.2001 *et seq.* of the Commission's rules.

The Company has not taken any actions (*i.e.*, proceedings instituted or petitions filed by a company at either state commissions, the court system, or at the Commission against data brokers) against data brokers in the past year.

The Company has not received customer complaints in the past year concerning the unauthorized release of CPNI.

The Company represents and warrants that the above certification is consistent with 47 C.F.R. § 1.17 which requires truthful and accurate statements to the Commission. The Company also acknowledges that false statements and misrepresentations to the Commission are punishable under Title 18 of the U.S. Code and may subject it to enforcement action.

Signed: \_\_\_\_\_



Attachment: Accompanying Statement Explaining CPNI Procedures

## **Statement Concerning the Protection of Customer Proprietary Network Information And Explanation of How Company's Procedures Ensure Compliance With FCC Rules**

1. opticAccess, LLC, ("Company") is in the process of becoming a telecommunications carrier subject to the requirements set forth in Section 64.2009 of the Federal Communications Commission's ("FCC's") rules. The Company holds a registration number from the FCC but did not provide telecommunications services in 2013. In anticipation of its providing telecommunications services, the Company has established policies and procedures to satisfy compliance with the FCC's rules pertaining to use, disclosure and access to customer proprietary network information ("CPNI") set forth in sections 64.201 et. seq.
2. The Company recognizes that CPNI includes information that is personal and individually identifiable, and that privacy concerns have led Congress and the FCC to impose restrictions upon its use and disclosure, and upon the provision of access to it by individuals or entities inside and outside the Company.
3. The Company has designated a CPNI Compliance Officer who is responsible for: (1) communicating with the Company's attorneys and/or consultants regarding CPNI responsibilities, requirements and restrictions; (2) supervising the training of Company employees and agents who use or have access to CPNI; (3) supervising the use, disclosure, distribution or access to the Company's CPNI by independent contractors and joint venture partners; (4) maintaining records regarding the use of CPNI in marketing campaigns; and (5) receiving, reviewing and resolving questions or issues regarding use, disclosure, distribution or provision of access to CPNI.
4. The Company has implemented privacy policies and procedures that restrict and prohibit its personnel from accessing and/or making use of customer data or information, including CPNI, for purposes other than legitimate business purposes permitted by the FCC rules. The Company trains its personnel in relation to these privacy policies and procedures, and, in particular, when personnel are and are not permitted to use CPNI. The Company has established disciplinary procedures, including and up to termination, for violations of these policies and procedures.
5. Before an agent, independent contractor or joint venture partner may receive or be allowed to access or use the Company's CPNI, the agent's, independent contractor's or joint venture partner's agreement with the Company must contain provisions (or the Company and the agent, independent contractor or joint venture partner must enter into an additional confidentiality agreement which provides) that: (a) the agent, independent contractor or joint venture partner may use the CPNI only for the purpose



for which the CPNI has been provided; (b) the agent, independent contractor or joint venture partner may not disclose or distribute the CPNI to, or allow access to the CPNI by, any other party (unless the agent, independent contractor or joint venture partner is expressly and specifically required to do so by a court order); and (c) the agent, independent contractor or joint venture partner must implement appropriate and specific safeguards acceptable to the Company to ensure the confidentiality of the Company's CPNI.

6. The Company's services are provided exclusively to other carriers and business customers. All customers are served by a dedicated account representative and our contracts specifically address protection of CPNI.
7. The Company does not use, disclose or permit access to CPNI to provide or market service offerings within a category of service to which the customer does not already subscribe, except as permitted by the FCC rules.
8. Information protected by the Company includes information that relates to the quantity, technical configuration, type, destination, location and amount of use of a telecommunications service subscribed to by a customer and made available to Company by the customer solely by virtue of the carrier-customer relationship. Also protected is information contained in the bills pertaining to telephone exchange service or telephone toll service received by a customer.
9. The Company does not use, disclose or permit access to CPNI to identify or track customers that call competing service providers.
10. If and when customer approval to use, disclose, or permit access to customer CPNI is desired, the Company will obtain such customer approval through written or oral methods (however, we only utilize the oral authorization to obtain limited, one-time use of CPNI for inbound and outbound customer telephone contacts, and such CPNI authority, if granted, lasts only for the duration of that specific call). The Company will honor a customer's approval or disapproval until the customer revokes or limits such approval or disapproval.
11. All sales personnel must obtain supervisory approval of any proposed outbound marketing request for customer approval of the use of CPNI. The Company has not engaged in outbound marketing using CPNI, but in the event we do, records reflecting carrier compliance with the Commission Rules will be maintained for a minimum of one year.
12. Prior to any solicitation for customer approval, the Company will provide notification to customers of their right to restrict use of, or disclosure of, and access to the customer's CPNI. Records of these notifications will be maintained for a period of at least one year.

13. The Company's notifications provide information sufficient to enable our customers to make informed decisions as to whether to permit the use or disclosure of, or access to, their CPNI. Company's notifications: (1) contain a statement that the customer has a right, and Company has a duty under federal law, to protect the confidentiality of CPNI; (2) specify the types of information that constitute CPNI and the specific entities that will receive the CPNI; (3) describe the purposes for which the CPNI may be used; and (4) inform the customer of the right to disapprove those uses and deny or withdraw access to or use of CPNI at any time.
14. Company does not permit the use of CPNI in its sales and marketing campaigns. Prior to authorizing such use, the Company will institute recordkeeping procedures to record all instances where CPNI was disclosed or provided to third parties or where third parties were allowed access to CPNI. These records will reflect a description of the campaigns, the specific CPNI used in the campaign and what products or services were offered as part of the campaign. These records are to be retained for a minimum of one year.
15. Company will maintain appropriate paper and/or electronic records that allow its employees, independent contractors and joint venture partners to clearly establish the status of each customer's Out-out and/or Opt-In approvals (if any) prior to use of the customer's CPNI. These records include: (i) the date(s) of any and all of the customer's deemed Opt-out approvals and/or Opt-in approvals, together with the dates of any modifications or revocations of such approvals; and (ii) the type(s) of CPNI use, access, disclosure and/or distribution approved by the customer.
16. If a breach of CPNI occurs, Company will provide electronic notification of the breach to the U.S. Secret Service and the FBI as soon as practicable and in no event more than seven (7) days after reasonable determination of the breach. Company will also notify customer within seven (7) more days unless there is a risk of immediate and irreparable harm to the customer in which case Company will notify the customer immediately after consulting with and in cooperation with the relevant investigative agency. Company will keep records of discovered breaches for at least two (2) years.
17. If Company determines that the opt-out mechanisms did not work properly, Company will notify the Commission by way of written notification within five (5) business days of said determination. The notice will be in the form of a letter and include, among other things, a description of the opt-out mechanism used, the problem experienced, the remedy proposed and when it will be or was implemented. In addition, the letter will inform the Commission as to whether or not the relevant state commission has been notified, whether it has taken any action, a copy of the notice provided to the customer and contact information. This notice will be submitted even if Company has other methods in place by which consumers may opt-out.